

## **REMARKS**

### **I. Introduction**

Claims 1, and 20-38 are pending in the application.

Claims 32-38 were withdrawn from consideration.

Applicant appreciates the Examiner's indication of allowable subject matter with respect to claims 21, 22, 24, and 27.

Claims 1 and 20 have been amended to further clarify patentably distinguishing aspects of the invention.

Favorable consideration is respectfully requested in light of the foregoing clarifying amendments and the following remarks.

### **II. Information Disclosure Statement**

Applicant thanks the Examiner for review and acknowledgment of the Information Disclosure Statement filed Jan. 30, 2008.

### **III. Claim Rejections Under 35 U.S.C. § 102**

Claims 1, 20, 23, 25, 26, 28 29 and 31 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent 5,481,931 (Vecchiari).

In referring to Fig. 3 of Vecchiari, the Action identifies plate (6), drive (8), an actuator (12), and a bridge (with a reference to the "end connected to edge of the plate") which is proposed to provide a pivot means.

At most, Vecchiari *arguably* discloses an actuator part that is integrally formed with the support (i.e., plate 6) – whether any of elements 11, 12, 13, or any combinations thereof. That is, the actuator part of Vecchiari actually corresponds to rack 13, which is a component that is manufactured separately and is not integrally formed with the support.

Nevertheless, among other things, and irrespective of that notable distinction, Vecchiari does not disclose, teach or suggest an actuator part that is *integrally formed with the support and that is configured for adjustment relative to the support* – much less an actuator part that is *configured for adjustment with the first and second (planar relevant) positions as claimed*.

Applicant has amended independent claims 1 and 31 to expressly clarify that the actuator part of the support is configured to be adjustable relative to the support and with respect to the expressly claimed first and second positions.

Therefore, with respect to pending independent claims, irrespective of which elements (11, 12, 13, or combinations thereof) of Vecchiari are considered to be the “actuator part,” none of those elements, taken alone or in combination, are configured to be (a) adjustable relative to the support from a *first position* in which the actuator part is oriented substantially in or along the plane of the support, and (b) adjustable to a *second position* in which the actuator part is oriented so as to reach substantially outwards relative to the plane of the support. *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994); *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”). In fact, and in contrast to the claimed invention, the Vecchiari elements 11, 12, and 13 all remain (and are intended to remain) in the same plane of the support/plate at all times. The device disclosed by Vecchiari is clearly not configured for adjustment to achieve both first and second positions, as claimed, and it is unreasonable and improper to interpret that reference as teaching or suggesting such a configuration and adjustment. “The identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP §2131 (quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

Because Vecchiari does not teach, or even suggest, all of the elements and their configuration as claimed, the rejection under Section 102 is improper and/or has been overcome.

Claims 20-29 all depend, directly or indirectly from independent claim 1, and for at least that reason are also patentable.

As such, withdrawal of the Section 102 rejections is respectfully requested.

#### **IV. Claim Rejections Under 35 U.S.C. § 103**

Claim 30 was rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 5,481,931 (Vecchiari).

While Applicant respectfully traverses the position of the Action that the purposeful comparative selection of materials as identified is merely an obvious matter of engineering choice. Applicant asserts that the rejection is moot given that claim 30 depends indirectly from allowable independent claim 1.

Therefore, withdrawal of the Section 103 rejection is respectfully requested.

**V. Conclusion**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. Moreover, because the arguments advanced herein may not be exhaustive, there may be additional reasons for patentability with respect to any or all of the pending claims that have not been expressed.

For all of the above reasons, Applicant submits the claims are now in proper form, and that the application is now in condition for allowance. Such action is respectfully solicited.

If for any reason the application is not believed to be in full condition for allowance, the Examiner is earnestly requested to contact the undersigned.

Respectfully submitted,

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